

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Charles W. Penland, Sr. and Mary  
Penland,

Plaintiffs,

vs.

The Governor of South Carolina, State of  
South Carolina Tax Division of the  
South Carolina Department of Revenue,  
Credit Bureau, Inc., and Receiver Saad in  
Case No. 7:05-cr-710,

Defendants.

C.A. No. 6:07-3241-HMH

**OPINION & ORDER**

This matter is before the court on remand from the United States Court of Appeals for the Fourth Circuit.

The Plaintiffs filed the instant case on September 26, 2007, alleging that the Defendant State of South Carolina Tax Division filed South Carolina tax liens against their properties in error and reported the tax liens to the Defendant Credit Bureau, Inc., which caused the Plaintiffs to suffer damages. This case was originally assigned to United States District Judge Henry F. Floyd, Jr. On October 25, 2007, Magistrate Judge William M. Catoe entered a Report and Recommendation recommending dismissing the case without prejudice. The Plaintiffs filed objections to the Report and Recommendation on November 7, 2007.

On March 31, 2008, Judge Floyd entered an order adopting the Report and Recommendation of the Magistrate Judge and dismissing the case without prejudice and without issuance and service of process ("March Order"). Judgment was entered on May 7, 2008.

The Plaintiffs filed a notice of appeal of the March Order on April 7, 2008. The Fourth Circuit remanded the instant case on July 14, 2008, for further proceedings without making any substantive ruling on the Plaintiffs' appeal. On July 22, 2008, the case was re-assigned to United States District Judge Henry M. Herlong, Jr. The Fourth Circuit's mandate issued on August 4, 2008.

After review of the Report and Recommendation and the March Order, and for the reasons set forth therein, the court agrees with Judge Floyd's March Order adopting the Report and Recommendation of the Magistrate Judge and dismissing the instant case without prejudice and without issuance and service of process.

It is therefore

**ORDERED** that the Plaintiffs' complaint is dismissed without prejudice and without issuance and service of process.

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
August 11, 2008

#### **NOTICE OF RIGHT TO APPEAL**

The Plaintiffs are hereby notified that they have the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.